

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ONH AFC CS INVESTORS LLC, *et al.*¹

Debtors.

Chapter 11 (Subchapter V)

Case No. 23–10931 (CTG)

(Jointly Administered)

Ref. D.I. 371

**ORDER DENYING MOTION OF SCHWARTZ-NIGHTINGALE PARTIES
TO QUASH SUBPOENAS ISSUED BY LIQUIDATING TRUSTEE OF THE
ONH LIQUIDATING TRUST**

Upon the motion, the (“Motion”)² of Five Park 3003 LLC, Midnight Capital Partners LLC, The Nightingale Group, LLC, Nightingale Properties, LLC, Nightingale Property Group LLC, One Night Holdings LLC, One Night Properties LLC, The Elchonon Schwartz Family Trust, ES 1 Westend Residence Trust, ES Family Life Insurance Trust, ES ONH Trust, ES28 Investments Trust, ES28 Investments LLC, 1 Westend PA-A LLC, and 320 Mountain Rd. LLC (collectively the “Subpoenaed Parties”) and Elchonon Schwartz (“Mr. Schwartz” and together with the Subpoenaed Parties, the “Movants” and each a “Movant”) for entry of an order (i) quashing the Subpoenas issued to the Subpoenaed Parties and Mr. Schwartz by the Trustee (ii) directing that the Subpoenaed Parties and Mr. Schwartz are not compelled to testify at an examination under Bankruptcy Rule 2004, and (iii) directing that the Subpoenaed Parties and Mr. Schwartz are not compelled to produce any documents to the Trustee; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court

¹ The last four digits of the Debtors’ federal tax identification numbers are 1199 (ONH AFC CS Investors LLC) and 6326 (ONH 1601 CS Investors LLC). The Debtors’ mailing address is 3445 Peachtree Road, Suite 1225 Atlanta, GA 30326.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having held a hearing to consider the relief requested in the Motion on February 5, 2025 and February 6, 2025 (collectively the “Hearing”); and the Court having considered the evidence adduced and arguments of counsel at the Hearing; and for the reasons set forth on the record at the Hearing;

IT IS HEREBY ORDERED THAT:

1. The Motion is denied as set forth herein.
2. The Movants shall respond to the Subpoenas by a date to be agreed by the Trustee. The response date shall be agreed to within five business days of this Order. In the absence of such agreement, the response date shall be determined by this Court. The Movants and the Trustee shall confer in good faith to reach agreement on the date of the response for purposes of this paragraph.
3. This Order is without prejudice to the Movants’ right to object or otherwise challenge the Subpoenas as set forth in Federal Rule of Civil Procedure 45 specifically based on burden, proportionality, and scope of the discovery requested.
4. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: February 21st, 2025
Wilmington, Delaware



CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE